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FILED

DEC 16 2016

Clerk, U.S. District Court
District Of Montana
Helena

Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

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|--|---|-----------------------|
| ROBERT WARREN, as surviving spouse |) | Case No. |
| and personal representative for the Estate |) | |
| of CONNIE WARREN, deceased, |) | |
| |) | |
| Plaintiff, |) | COMPLAINT AND |
| |) | DEMAND FOR JURY TRIAL |
| vs. |) | |
| |) | |
| UNITED STATES, |) | |
| |) | |
| Defendant. |) | |

* * * * *

Plaintiff for his complaint against Defendant alleges the following:

JURISDICTION

This case is a claim against the United States following adherence to the Federal Tort Claims Act. This case is filed under 28 USC § 1346 as it involves a tort claim against the federal government for negligence which occurred at an agency of the United States government located in Helena, Montana.

FACTUAL ALLEGATIONS

1. Plaintiff is the surviving spouse and personal representative of the estate of his deceased wife, Connie Warren. Connie died on March 28, 2015.

2. This is a medical malpractice case which arises from the failure to follow standard of care practices when Connie went to the Helena Cooperative Health Clinic, aka Pureview, on March 27, 2015. Helena Cooperative Health Clinic is a community health center located in Helena, Montana.

3. Helena Cooperative Health Clinic is a community health center federally funded under the Public Health Services Act. As such, Helena Cooperative Health Clinic is eligible for coverage under the federally supported Health Center's Act and the Federal Tort Claim Act.

4. Plaintiff has properly filed a Federal Tort Claim Act and it has by lapse of time been denied.

5. On March 27, 2015, Connie Warren went to Helena Cooperative Health Clinic because she was feeling fatigued and had shortness of breath. A nurse practitioner who saw her and noted that she had been feeling bad, had not been feeling well for about a month, currently had shortness of breath, fatigue and a cough at night. Connie had also complained of elbow pain 4 months prior and sinus congestion about a year before, but otherwise had not much by way of prior medical history.

6. The Helena Cooperative Health Clinic referred Connie to the local hospital for x-rays and some blood work. The said Clinic failed to consider both the x-rays and blood work. Lab work showed monocytes were high. There was no CPK done.

The x-ray report noted that the lungs were hypo-inflated. There were bilateral plural effusions. The cardio mediastinal silhouette demonstrated normal cardiac diameter. The pulmonary vasculature was prominent. The osseous structures were remarkable for osteopenia and degenerative change.

7. There was no follow up by the practitioner at the Helena Cooperative Health Clinic to advise Connie as to what needed to be done. There was no recommendation of an EKG or echo test.

8. On March 28, 2015, Connie went to a family shower and was not feeling particularly well so decided to go to her car. There she collapsed and died of a heart attack. Pathology was done and found that she had ischemic heart disease, greater than 95% stenosis of the left anterior descending coronary artery, an old and focal acute myocardial infarct, left anterior and interventricular septum, bilateral plural effusions and hepatic congestion. Connie was exhibiting signs and symptoms of a heart attack on 3/27/15 which was totally missed and ignored by staff at the Helena Cooperative Health Clinic. Standard of care was not met by the Clinic and as a result Connie suffered and died.

9. Connie Warren had co-morbidities of moderate hypertension, diabetes and depression-anxiety disorder when she was seen by the nurse practitioner at Helena Cooperative Health Clinic on March 27, 2015. In addition to relating episodic nocturnal dyspnea with daily shortness of breath that had been present for approximately one month, her labs showed hyperglycemia, the chest x-ray demonstrated bilateral plural effusions. This all suggests, given her symptoms, the onset of congestive heart failure.

The etiology could have been either obstructive ischemic or non-ischemic coronary artery disease but certainly coronary artery disease with the presence of valvular heart disease. The care rendered by the Defendant's Clinic deviated from acceptable standards of care. The proper course would have been a stat or immediate referral to the Emergency Department at the local hospital where she could have been seen by a physician who would then consult cardiology for admission and further diagnostic studies including an echo, cardiac catheterization, CT-A. These studies and tests would have offered Connie an opportunity to recover from her damaged myocardium.

10. As a result of Defendant's negligence, Connie Warren suffered for an appreciable period of time before she collapsed and died.

11. Plaintiff Robert Warren has suffered the loss of his wife and is entitled to claim all damages for the wrongful death and survival of his wife who survived the medical negligence for an appreciable period of time such that she consciously suffered before her death. Plaintiff claims damages in the amount of \$1.75 million.

WHEREFORE, Plaintiff prays for all general, compensatory and special damages as are proved at trial together with costs, disbursements and such other relief as the Court deems just and proper.

DATED this 16th day of December, 2016.

DOUBEK, PYFER & FOX, LLP

By _____
John C. Doubek
Attorney for Plaintiff